THE HONOURABLE SRI JUSTICE E. DHARMA RAO

W.P. No.17208 OF 2005

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Dated: 04.08.2005

Between:-

M/s Ananda Aqua Exports Pvt. Ltd.

At D.No.2-5-1, Sivaraopet, Bheemavaram,

West Godavari District, represented by its Director

Uddaraju Jogi Ananda Varma

…PETITIONER

And

The District Collector, East Godavari District, Kakinada and another.

..RESPONDENTS

O R D E R

The petitioner seeks a Mandamus declaring the action of the respondents in interfering with his company's property in respect of Sy. Nos. 24, 27, 37 and 38 situated at Kothapalem, hamlet of Brahmasamuedhyam village, Katrenikona Mandal, East Godavari District and by calling the petitioner not to take usufruct, without anything in writing as illegal, arbitrary and consequently to direct the respondents not to interfere with the removal of the usufruct belonging to the petitioner's property i.e. lands in Survey Nos. 24, 27, 37 and 38 situated at

Kothapalem, hamlet of Brahmasamuedhyam villagel, Katrenikona mandal, East Godavari District.

The case of the petitioner is that the 2nd respondent invoking the provisions of Act 9/1977 issued notice vide proceedings No. A/11/2004, dated 17.2.2005 stating that the lands in Survey Nos. 16, 24, 27, 28 and 33 of Kothapalem village, hamlet of Brahma Samedhyam village within Balusupippa Gram Panchayat, Katrenikona mandal, East Godavari District are hit by the provisions of said Act and accordingly his company informed to the 2nd respondent since the Managing Director was away abroad, 15 days time be given for submitting explanation and ignoring the said request, the 2nd respondent passed an order on 13.3.2005 wherein it is mentioned that 2nd respondent has given different survey numbers viz. Sy.lNos. 24, 27 and 33 other than the survey numbers mentioned in the notice and stated that the lands in Survey Nos. 26, 33 and 38 etc. are resumed by virtue of said order. Assailing the correctness of the said order, the petitioner-company filed W.P. No. 6084 of 2005 before this Court and this Court has set aside the impugned order dated 13.3.2005 and permitted the petitioner-company to submit its explanation and accordingly the petitioner's company has submitted its explanation on 05.04.2005, but till today no final orders on the explanation have been passed. But the 2nd respondent has issued a notice dated 20.7.2005 requesting the petitioner to furnish the information as regards survey Nos. 24, 27 and 33 of Brahmasamedhy;m, hamlet of Kothapalem village, Katrenikona mandal, East Godavari District and not being satisfied with the said notice, the 2nd respondent is interfering with the petitioner's property situated in Survey Nos. 37 and 38 of Kothapalem, Katrenikona mandal and when the petitioner insisted upon written order, the 2nd respondent stated that he need not give any order and he can stop the petitioner from using its land. Therefore, the action of the respondents is per se bad in law. Hence, the petitioner came up with the present writ petition.

Heard the learned counsel for the petitioner and the learned Government Pleader for Revenue.

Considering the facts and circumstances of the case, this writ petition is not maintainable against the impugned urgent notice issued by the 2nd respondent, dated 20.07.2005, wherein the 2nd respondent directed the petitioner that some

details are not mentioned in the explanation submitted by him on 05.04.2005, as directed by this Court in W.P. No. No. 6084 of 2005. By virtue of this urgent notice, no prejudice will be caused to the petitioner and no final orders are passed affecting the right of the petitioner. Hence, there are no merits in this writ petition and the writ petition is liable to be dismissed.

The writ petition is accordingly dismissed. No order as to costs. However, the petitioner is entitled to give a reply to the urgent notice, dated 20.07.2005, if he so pleases.

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E. DHARMA RAO, J

4th August, 2005

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